



## Kenya

### International Religious Freedom Report 2005

Released by the Bureau of Democracy, Human Rights, and Labor

The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

There was no change in the status of respect for religious freedom during the period covered by this report, and government policy continued to contribute to the generally free practice of religion; however, some Muslim leaders continue to charge that the Government is hostile toward Muslims.

There generally is a great level of tolerance among religious groups although some Muslims perceive themselves to be treated as second-class citizens in a predominantly Christian country. There are some interfaith movements, but the Ufungamano Initiative, which previously grouped Muslims and Christians, now consists only of Christians.

The U.S. Government discusses religious freedom issues with the Government as part of its overall policy to promote human rights.

#### Section I. Religious Demography

The country has an area of approximately 225,000 square miles, and its population is estimated to be 32 million; approximately 88 percent live in rural areas. According to official government figures, Protestants are the largest religious group, representing approximately 38 percent of the population. Roman Catholics represent 28 percent of the population. Seven percent of the population practices Islam, 1 percent practices Hinduism, and the remainder follows various traditional indigenous religions or offshoots of Christian religions. There are very few atheists. Some sources dispute these figures; Muslim groups often claim to represent 15 to 20 percent of the population, sometimes even more. Other sources also consider the 7 percent figure too low, estimating the Muslim population to fall within the 10 to 15 percent range.

Most religious groups are active throughout the country, but certain groups dominate particular regions. For example, North Eastern Province, where the population is chiefly Somali, is mostly Muslim. Muslims also predominate in Coast Province, except for its western areas, which mostly are Christian. Eastern Province is approximately 50 percent Muslim (primarily in the north) and 50 percent Christian (primarily in the south). The rest of the country largely is Christian, with some persons practicing traditional indigenous religions.

Many foreign missionary groups operate, the largest of which are the African Inland Mission (evangelical Protestant), the Southern Baptist Church, the Pentecostal Assembly of Kenya, and the Church Missionary Society of Britain (Anglican). The Government generally has permitted these missionary groups to assist the poor and to operate schools and hospitals. Missionaries openly promote their religious beliefs and have encountered little resistance.

#### Section II. Status of Religious Freedom

##### Legal Policy/Framework

The Constitution provides for freedom of religion, and the Government generally respects this right in practice. The Government at all levels strives to protect this right in full and does not tolerate its abuse, either by governmental or private actors. However, Muslim and Christian groups remain engaged in a long-standing debate over whether special Islamic courts should be recognized in the country's Constitution at the end of the period covered by this report. The Government is currently involved in this dispute in its efforts to write a new constitution. Muslim groups have also voiced concerns regarding a proposed anti-terrorism bill and government assistance to Islamic schools.

The Constitution and the Kadhis' Courts Act of 1967 established a venue to have certain types of civil cases adjudicated based on Islamic law. The Constitution provides for the establishment of Kadhis' courts where "all the parties profess the Muslim religion" in suits addressing "questions of Muslim law relating to personal status, marriage, divorce or inheritance." Articles 65 and 67 make it clear that Kadhis' courts are "subordinate" courts, meaning that the secular High Court has jurisdiction to

supervise any civil or criminal proceedings before a subordinate court. It also indicates that if a question involving constitutional or legal interpretation arises in a Kadhis' court proceeding, any party involved in the proceedings may refer the question to the High Court.

In March 2004, the National Constitutional Conference, which began its work in 2003, completed a new draft constitution, which provides for freedom of religion and separation of church and state. According to the draft constitution there shall be no state religion, and the state shall treat all religions equally.

The Kadhis' courts issue continues to generate controversy. The draft constitution retains Kadhis' courts as subordinate courts with essentially the same jurisdictions as are included in the current Constitution. However, in June 2005, a coalition of Christian churches unveiled a proposed constitution of its own, which did not include the Kadhis' courts. Later the same month, the Anglican Church of Kenya specifically announced its opposition to Kadhis' courts, arguing that including Kadhis' courts in the constitution would give preferential treatment to Muslims. An Anglican bishop fueled the fire by saying that in countries like Nigeria where Shari'a law is official, there is no peace between Christians and Muslims.

Muslim groups argue that other religious groups could establish their own courts if necessary. They further contend that the recognition of Kadhis' courts was a condition for the integration of the coastal strip at the time of independence and question why opponents now object to this system. By the end of the period covered by this report, the effort to adopt a new constitution remained stalemated, but the controversy over the Kadhis' courts continued to reveal latent animosities between Christians and Muslims.

In 2003, the Government published the Suppression of Terrorism Bill. Many observers, including the National Council of Churches of Kenya (NCCCK), found the bill objectionable on human rights grounds, arguing that it contains provisions that violate the Constitution. Muslim leaders argue that the bill specifically targets their community. In June 2004, the Council of Imams and Preachers of Kenya, referring to the arrest of 30 Muslims on terrorism charges, accused the Government of targeting Muslims and applying the bill as if it were law. A new bill was being drafted, but Muslims and human rights activists continue to argue that the bill was not necessary and would inevitably discriminate against Muslims.

The Government requires new religious organizations to register with the Registrar of Societies, which reports to the Office of the Attorney General. The Government allows traditional indigenous religious organizations to register, although many choose not to do so. Once registered, religious organizations may apply for tax-exempt status, including exemption from paying duty on imported goods. Applications for tax exemptions are approved on a case-by-case basis. Some religious institutions accused the former government of revoking their exempt status on value added tax and custom duties. For example, the Presbyterian Church of East Africa (PCEA) claimed that the former government revoked its exempt status because the Church supported opposition political groups. The current government, however, does not use tax laws to favor one religious group over another.

Religious organizations generally receive equal treatment from the Government; however, some small splinter groups have found it difficult to register when the Government views them as an offshoot of a larger religious organization. Political parties also must register with the Government. The Government has refused to reverse its 1992 denial of registration of the Islamic Party of Kenya (IPK) on the grounds that the IPK, which in 1992 was involved in a number of violent confrontations with police, violated the "secular principle" of the Constitution.

In areas that are largely Christian, there are morning prayers in public schools. All children participate in the assembly but are not punished if they remain silent during prayers. The Government and some churches frequently disagree over school management when both share responsibility for the school. Often churches provide the land and the buildings for the schools, while the Government provides the teachers. This has led to disputes over school management and occasionally to the closing of schools. In its 2003 report on religious freedom in public schools, the Standing Committee on Human Rights found that the Africa Inland Church (AIC) infringed on students' freedom of worship. The AIC sponsors a number of schools, some of which are public. The report found that the AIC compelled all students admitted to its schools to adhere to its beliefs, which contradicts the Constitution.

Islamic institutions sponsor a few public schools that the Government supports through payment of teachers' salaries and the provision of equipment. Some Muslims have expressed concern that the lack of a university in Coast Province, which has a large Muslim population, hinders educational opportunities for Muslims; however, higher education is available to Muslim students in other regions. Some Muslims voiced opposition to a government program, financed in part by the U.S. Government, which works with Islamic schools to improve the quality and efficiency of primary education. They charged that the aim of this program is to dilute the teaching of "true" Islam.

The Ministry of Transport and Communication has approved regional radio and television broadcast licenses for several Muslim and Christian groups. The petition of the Catholic Church for a national frequency was not resolved by the end of the period covered by this report. To date, no media organization except the government-owned Kenya Broadcasting Corporation has been granted a national frequency; however, some organizations--both secular and religious--have been assigned a series of regional broadcasting frequencies to give their broadcasts national reach.

The Government celebrates several holy days as national holidays, including Good Friday, Easter Monday, Christmas, Eid al-Fitr, and Eid al-Adha.

### **Restrictions on Religious Freedom**

Government policy and practice contributed to the generally free practice of religion. However, some Muslim leaders charge that the Government is hostile toward Muslims. The leaders claim that, since the 1998 bombing of the U.S. Embassy in Nairobi, the 2002 terrorist attacks in Mombasa, and terrorist attacks elsewhere, government discrimination against their community has worsened, especially demands for identity documents. According to these leaders, authorities more rigorously scrutinize the identification cards of persons with Muslim surnames, especially ethnic Somalis, and sometimes require additional documentation of citizenship, such as birth certificates of parents and even grandparents. The Government says that this heightened scrutiny is an attempt to deter illegal immigration rather than to discriminate against ethnic Somalis or their religious affiliation.

Unlike in the previous reporting period, there were no reports that private companies fired members of the Seventh-day Adventist Church, allegedly for their refusal to work on Saturdays.

Practicing witchcraft is a criminal offense under colonial-era laws; however, persons generally are prosecuted for this offense only in conjunction with some other charge, such as murder. Witchcraft traditionally has been a common explanation for diseases of unknown cause. The practice of witchcraft is understood widely to encompass attempts to harm others not only by magic but also by covert means such as poisons. Although many traditional indigenous religions include or accommodate belief in the efficacy of witchcraft, they generally approve of harmful witchcraft only for defensive or retaliatory purposes and purport to offer protection against it.

### **Abuses of Religious Freedom**

A public opinion poll carried out in late 2004 asked respondents which human rights they thought were abused in the country. Only 7 percent included freedom of worship as a problem, with this right ranking 22nd out of the 26 rights listed. However, in the heavily Muslim Coast Province, 31 percent believed respect for freedom of religion was a problem.

Prominent local Muslims continued to charge the Government with arbitrarily harassing Muslims in the name of the war on terrorism. In May 2004, a Somali-Kenyan Member of Parliament wrote a letter to a leading newspaper citing several cases of what he alleged were arbitrary arrests and deportation of Muslims.

Wanjiru Nduhiu, arrested in 2002 on charges of urging her followers to renounce Christianity and revert to traditional beliefs and practices, including female genital mutilation, remained in custody at the end of the period covered by this report. There were no other reports of religious prisoners or detainees.

### **Forced Religious Conversion**

There were no reports of forced religious conversion, including of minor U.S. citizens who had been abducted or illegally removed from the United States, or of the refusal to allow such citizens to be returned to the United States.

### **Abuses by Terrorist Organizations**

There were no reported abuses targeted at specific religions by terrorist organizations during the period covered by this report.

### **Section III. Societal Attitudes**

There generally is a great level of tolerance among religious groups, although some Muslims perceive themselves to be treated as second-class citizens in a predominantly Christian country. Inter-marriage between members of Christian denominations is common, and interfaith prayer services occur frequently. Inter-marriage between Muslims and Christians, although less frequent, also is socially acceptable, and mosques and Christian churches can be found on the same city blocks.

For years Muslims and Christians have held an open debate over their respective places in society. Each group claims to have a larger number of adherents than is plausible, and some Muslim groups believe that the Government and business communities deliberately have impeded development in predominantly Muslim areas. Some Muslim leaders claim that discrimination against Muslims has resulted in a greater incidence of poverty among Muslims than among other religious groups; however, there is no statistical evidence to support this claim. At times the debate has undermined mutual trust.

Unlike during the previous reporting period, there were no reports of Muslim youths or demonstrators burning down churches.

There have been no developments in the 2003 killing of Joseph Okech, who died in a fight during Sunday services between two factions of St. Stephen's Church in Dandora.

There were no further developments in incidents from previous years regarding disputes over land ownership and institutional conflicts between rival religious factions.

In April 2004, a mob killed a man in Mt. Elgon whom they accused of practicing witchcraft. Villagers claimed they had found a snake and witchcraft paraphernalia in the man's house and blamed him for the death of 810 persons. A week earlier, a group of Mt. Elgon villagers stormed the homestead of another man they suspected of witchcraft. The man escaped, but the mob set fire to five houses in his homestead. In June 2005, a couple was arrested in Western Kenya under the Witchcraft Act for allegedly possessing charms. Unlike similar cases in past years, no one alleged that these incidents were politically motivated.

There have been reports of intolerance among refugee groups in the country. Somali refugees reportedly have attacked relatives who marry refugees belonging to faiths other than Islam. Somali refugees at the Dadaab camps also reportedly have verbally and physically attacked Sudanese refugee women who wear westernized clothing considered "too revealing" by Somali standards.

There have been societal efforts to bridge religious divides. The Inter-Faith Peace Movement represents a broad religious spectrum, and its members include the Anglican Church of Kenya, the Supreme Council of Kenyan Muslims, the Muslim Consultative Council (MCC), the Methodist Church, the Catholic Church, the NCKK, the AIC, the PCEA, and the Hindu Council. The NCKK generally is involved in a variety of civil society initiatives, including conflict resolution. The Catholic Justice and Peace Commission, the MCC, and the NCKK continued a program to promote interfaith dialogue and reduce ethnic conflict in Isiolo district. There are other cooperative efforts among religious groups to work on societal problems, including the Inter-Religious Steering Committee for Elimination of Female Genital Mutilation.

In 2003, the Supreme Council of Kenyan Muslims (SUPKEM) withdrew from the Ufungamano Initiative, an interfaith movement that helped spur the constitutional review process. SUPKEM left Ufungamano after some Christian members decided to oppose the inclusion of Kadhis' courts in a new constitution.

#### **Section IV. U.S. Government Policy**

The U.S. Government discusses religious freedom issues with the Government as part of its overall policy to promote human rights. The U.S. Embassy has made a concerted effort to bridge the gaps that exist between Muslims and Christians. Embassy officials maintain regular contact with all religious communities, and the Ambassador hosts meetings with religious leaders to discuss issues affecting their communities. The Ambassador and Embassy officials routinely travel throughout the country to meet with religious and community leaders to facilitate dialogue on religious freedom. The U.S. Government also provides grants to many communities that, for historical and religious reasons, perceive themselves to have been marginalized by previous governments. The U.S. military carries out civic action programs to provide medical and veterinary assistance as well as to build and repair schools in Muslim and other marginalized communities.

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[International Religious Freedom Report Home Page](http://www.state.gov/g/drl/rls/irf/2005/51478.htm)